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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,200	03/31/2004	Cesar C. Carriazo	C259 1020.1	6021

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WOMBLE CARLYLE SANDRIDGE & RICE
P.O. Box 7037
Atlanta, GA 30357-0037

EXAMINER

MENDOZA, MICHAEL G

ART UNIT	PAPER NUMBER
3734	

MAIL DATE	DELIVERY MODE
06/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.	CARRIERO, CESAR C.
Examiner Michael G. Mendoza	Art Unit 3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 March 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/29/2004.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application
6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

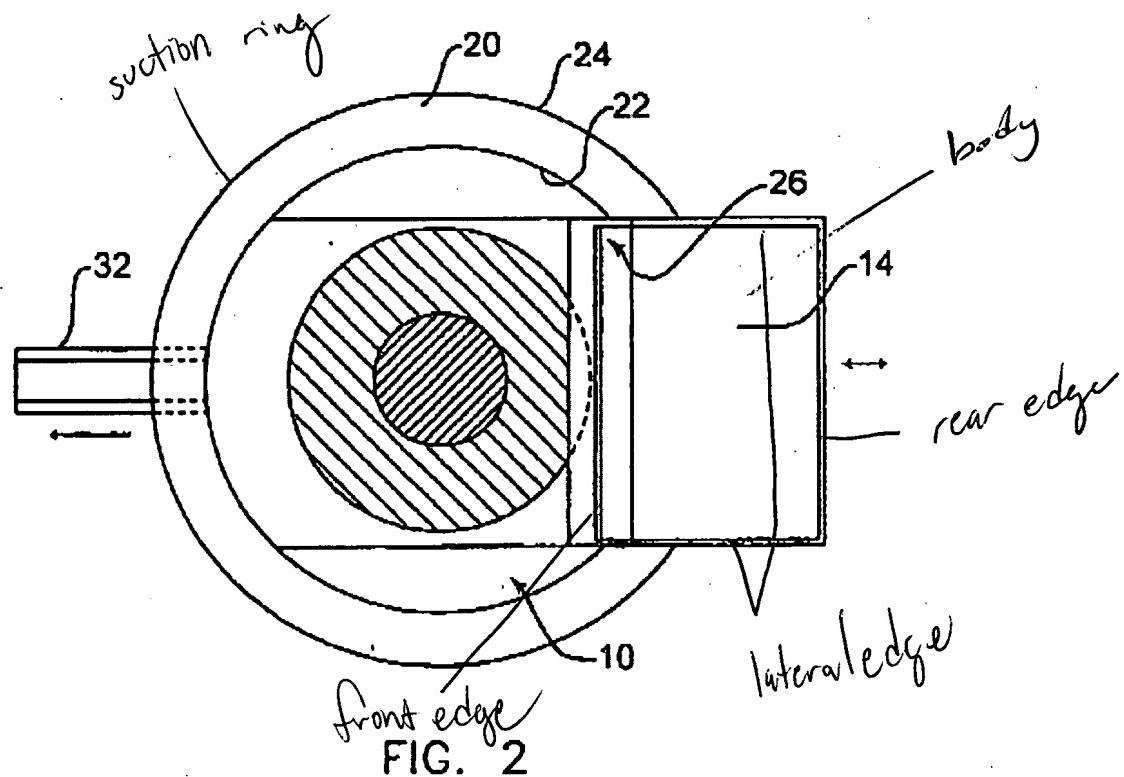
A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 9-21, and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Pallidaris et al. 7156859.
3. Pallidaris et al. teaches a blade for a surgical device comprising a blade body, a front and a rear edge, and two lateral edges connecting the front and rear edges of the blade, the front edge serving for processing the cornea, characterized in that an end of the front edge of the blade is formed bluntly, such that it is not suitable for severing the cornea (col. 3, lines 12-25), wherein said blade body has front and back sides, wherein the front edge of said blade is formed of at least one inclination and a bluntly formed end, and the inclination extends from the front side of said blade body to the back side of said blade body, wherein said blade body has front and back sides, wherein the front edge of said blade is formed of at least one inclination and a bluntly formed end, and the inclinations each extend from the front side of said blade body and the back side of said blade body to the end, wherein the blade is at least partially formed as a regular or non-regular quadrangle, wherein said front edge of said blade is formed straightly or

curved, wherein said blade is formed straightly or bent, wherein the blade is detachably attached in a blade holder of the device, wherein blade is integrally formed with a blade holder of the device; wherein the device has a suction ring for fitting onto the eye and partially sucking the cornea of the eye, and the blade holder with the blade moves across said suction ring, wherein the blunt end of the front edge of the blade penetrate an epithelial layer of the cornea over the Bowman layer, such that an approximately round epithelial flap arises and the epithelial flap is completely or only partially severed from the remaining epithelial layer.

4. As to claims 6 and 21, Pallikaris et al. teaches a blade and a device that uses the blade. Since a blade is inserted into the device it would be inherent that there would be a way to fasten the blade to the device.



Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 7 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallikaris et al.

7. Pallikaris et al. fail to specifically teach of what material the blade comprises. However, it is well known in the art of blades to use a metal or a metal alloy. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a metal for its known suitability in surgical procedures.

8. Claims 8 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallikaris et al. in view of Smith 6056764.

9. Pallikaris et al. fail to teach wherein the blade is coated with a material different from the material of the blade. However, Smith teaches a blade that is coated with a material different from the material of the blade. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to coat the blade to harden the blade for longevity (col. 6, lines 8-20).

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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MICHAEL J. HAYES
SUPERVISORY PATENT EXAMINER